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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/559,575 11/16/95 BUSBOOM

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EXAMINER
DATSON, V

C5M1/1004

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ART UNIT

PAPER NUMBER

2

3501

DATE MAILED:

10/04/96

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
08/559,575

Applicant(s)
GARRY W. BUSBOOM

Examiner
VIC BATSON

Group Art Unit
3501



☐ Responsive to communication(s) filed on _____.

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-8 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-8 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☒ The drawing(s) filed on Nov 16, 1995 is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☒ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Part III DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the automatic means claimed, must be shown or the feature(s) cancelled from the claim(s). No new matter should be entered.

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 24a, 24b, 24c, 22 (found on page 7). Correction is required.

Specification

3. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The specification or drawings fail to provide proper antecedent basis for any automatic means.

Claim Rejections - 35 USC § 112

4. Claims 1-8 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Independent claims 1 & 8 should begin with "A". Throughout the claims, the use of quotations is

inappropriate and should be deleted. Throughout the claims, the phrase "Hillside-stable powerably-motivated lawnmower" is considered vague and indefinite and should be rephrased.

Throughout the claims, "improved" should be deleted. In claim 1, line 21, "a said" should be changed to "said" as antecedent basis has already been established for the engine-drive-belt in line 15. In claim 1, section "(E)" (lines 24-26) is considered omnibus. In claim 2, line 2, claim 6 line 2, "the lawnmower's operator" lacks proper antecedent basis. In claim 2 line 5, claim 6 line 5 and claim 8 lines 15-16, the phrase "frame/upright handle/selectable-pin" is inappropriate and should be rephrased. In claim 3, lines 2-3, "said seated lawnmower operator" lacks proper antecedent basis. In claim 3 lines 4-5, "said seated operator" lacks proper antecedent basis. In claim 4 lines 1-2, and claim 5 line 2, the phrase "strategically positioned" and "strategically located" respectively, are considered vague and indefinite. In claim 5 line 5, the phrase "efficiently directionally transversely ejected" is considered vague and indefinite. In claim 6 lines 6-7, the phrase "a selectable automatically-determinative lower-height grass mowing means is confusing and not understood by the examiner. In claim 7 line 1, the phrase "strategically and preferably" is considered vague and indefinite. In claim 8 line 4, the phrase "rearward engine engine-motivated" is not understood by the examiner. In claim 8

line 11, "effectively and efficiently" is considered vague and indefinite, and "eject bladeswise" is not understood. In claim 8 line 16, delete "effortlessly" as governing a selectable lower-height grass mowing means obviously takes some effort not matter how small.

The terms "efficiently, strategically, preferably, effectively, and effortlessly" in claim 1-8 as mentioned above are relative terms which render the claims indefinite. The terms "efficiently, strategically, preferably, effectively, and effortlessly" are not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Regarding claims 2,6,8, the phrase "and/or" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary

skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

6. Claims 1-8 are rejected under 35 U.S.C. § 103 as being unpatentable over Kitmura (5,337,543).

Kitmura discloses a lawn mower having all of applicants claimed structure including a rearwardly positioned engine, a forwardly positioned shroud, having a horizontal topical-deck, a plurality of circularly-traceable revolvable horizontal grass-cutter blades, an endless blades-drive-belt, idler pulleys, an inter-belts-pulleys arrangement, an endless engine-drive-belt extending from said rearwardly positioned engine, a pair of vertically-overlapping pulley sheaves, and a two-heights shroud height control for adjusting the height of the shroud as shown in figure 1. Kitmura et al. however discloses the upper-sheave being the engine-drive-belt and the lower sheave being the blades-drive-belt instead of the upper-sheave being the blades-drive-belt and the lower sheave being the engine-drive-belt. Concerning claims 4 & 7, the hydrostatic transmissions 50 are considered hydraulic pumps. Concerning the claimed limitation of upright baffles, the inside surface of the upright section of the

shroud is considered the baffles as this surface surrounds the grass cutter blades baffling the cut grass and directing it to the ejection opening.

Kitmura et al. discloses the claimed invention except for the engine-drive-belt sheave being positioned above the blades-drive-belt sheave. It would have been an obvious matter of design choice to reverse the positions of the sheaves, since applicant has not disclosed that positioning the engine-drive-belt sheave below the blades-drive-belt sheave solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with the engine-drive-belt sheave positioned above the blades-drive-belt sheave.

Additionally, Kitmura et al. discloses the claimed invention except for the engine-drive-belt sheave being positioned above the blades-drive-belt sheave. It would have been obvious to one having ordinary skill in the art at the time the invention was made to position the engine-drive-belt sheave below the blades-drive-belt sheave, since it has been held that a mere reversal of the essential working parts of a device involves only routine skill in the art. *In re Einstein*, 8 USPQ 167.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The remaining references disclose various lawn mower arrangements.

Inquiries

8. Any inquiry concerning this communication should be directed to Examiner Victor Batson whose telephone number is (703) 305-6356. The examiner can be normally reached Monday through Friday (except Wednesday) from 7:00 am to 5:00 pm, Eastern Standard Time.

9. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randolph Reese, can be reached on (703) 308-2121. The fax phone number for this Group is (703) 305-3597/8.

**VICTOR BATSON
PATENT EXAMINER
GROUP 3500**

Victor Batson
September 27, 1996


**TERRY LEE MELIUS
PRIMARY EXAMINER
GROUP 350**